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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,429	11/20/2003	Yasuyuki Nomizu	245721US2	6962
22850	7590	01/02/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER SHIFERAW, ELEN I A	
			ART UNIT 2136	PAPER NUMBER
			NOTIFICATION DATE 01/02/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

## Office Action Summary

Application No.

10/716,429

Applicant(s)

NOMIZU ET AL.

Examiner

Eleni A. Shiferaw

Art Unit

2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-20 are presented for examination.

***Response to Amendment***

2. The office accepts the amendments to drawings.
3. The objections to the IDS(s) are still maintained because applicant is required to submit the related cases on form 1449 so the examiner can initialize and provide to the applicant, the considered references.
4. With respect to the IDS(s) objections on 04/16/04, the office withdraws the objection.
5. With respect to objections to claims 1-3, 13, 15-17, and 19, the office accepts the amendments.
6. The 101 rejection to claims 1-3 and 13 are still maintained because the claimed invention is directed to non-statutory subject matter. The claims state an apparatus on their preamble but all the limitation disclosed are modules inside the body of the claims. Applicant is required to modify the claims. For example, adding a "processor" comprising:... in the body of the claims.
7. The 101 rejection to claims 15-17 and 19 are still maintained because the word "including" is not solving the previous rejection because the code/program/software needs to be "stored" or "embodied".

***Response to Arguments***

8. Applicant's arguments filed on 10/01/2007, regarding 103 rejection, have been fully considered and they are persuasive.

***Claim Rejections - 35 USC § 101***

9. 35 U.S.C. 101 reads as follows:

a. Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims 1-3 and 13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims state an apparatus on their preamble but all the limitation disclosed are modules inside the body of the claims.

11. Independent claims 15-17, and 19 and their dependent claims are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

12. It is not tangibly embodied as it is software per se. It is suggested that the claimed subject matter "A computer readable medium *including* ..." should be changed to specify the code stream producing program and/or the image processing program being "*stored*" or "*embodied*" on a computer readable medium.

#### ***Allowable Subject Matter***

13. Claims 1-20 would be allowable if rewritten or amended to overcome the rejection(s), and/or objections, under 35 U.S.C. 101, set forth in this Office action.

#### ***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni A. Shiferaw whose telephone number is 571-272-3867.

The examiner can normally be reached on Mon-Fri 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser R. Moazzami can be reached on (571) 272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 22, 2007

NASSER MOAZZAMI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

  
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